

Testimony of
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Before the
House Committee on Government Reform

Regarding
The Impact of New Visa and Passport Requirements on
Foreign Travel to the United States

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Chairman Davis, Ranking Member Waxman, and members of the Committee, I am pleased to have this opportunity to appear before you today to discuss the implementation of the machine readable passport requirement for participation in the Visa Waiver Program (VWP).

My name is Michael Cronin and I am the Associate Commissioner for Immigration Policy and Programs in the Bureau of Customs and Border Protection of the Department of Homeland Security.

In 1986, the Immigration Reform and Control Act incorporated the Visa Waiver Pilot Program into the Immigration and Nationality Act (INA). The program retained its pilot status until October 30, 2000, when the Visa Waiver Permanent Program Act converted it from its pilot status to a permanent program. The Visa Waiver Program allows foreign travelers from certain countries to be admitted to the United States as visitors under specific conditions and for a limited time without first obtaining a nonimmigrant visa.

Section 217 of the INA states that, barring a waiver, an alien at the time of application for admission must be in possession of a valid, unexpired, machine-readable passport that satisfies the internationally accepted standard for machine readability. In October, 2001, Section 417 of the 2001 USA PATRIOT Act advanced the deadline for implementation of this requirement from October 1, 2007, to October 1, 2003. Although this deadline represents the first universal application of the machine-readable passport requirement, it has been a long-standing Program requirement that countries in the VWP issue or certify their intent to issue a machine-readable passport.

I would like to clearly note at this point that the October 1, 2003, deadline for machine-readable passports is distinct from the October 26, 2004, deadline for biometrics in passports. Under section 303 of the Border Security Act, by October 26, 2004, VWP countries are required to certify that they have in place a program to issue passports that contain biometrics as a condition of continued participation in the VWP. Also, on or after October 26, 2004, any alien seeking admission under the VWP must present a passport that contains biometrics, unless the passport was issued prior to that date.

The use of machine-readable passports is critical to efficient border management and to the capture of accurate biographical and passport data relating to foreign travelers. This capability forms the backbone of the Advance Passenger Information System under which data on arriving air and sea travelers is communicated to the Bureau of Customs and Border Protection and to our ports-of-entry well in advance of the conveyances on which they are traveling. It greatly reduces the possibility of human error or misfeasance in capturing and communicating data. This data is used to identify persons seeking to enter our country who may present a threat to our national security or welfare.

As noted earlier, the October 1, 2003, deadline was enacted in October, 2001, following a lengthy period during which VWP countries were required to certify, as a condition of participation in the Program, that they were issuing or preparing to issue machine-readable passports. The majority of VWP travelers are presently in possession of machine-readable passports and will have no difficulty in meeting this new requirement. Those who are not in

possession of machine-readable passports will, on and after October 1, 2003, have to acquire such a passport from their country of nationality in order to enter the United States under the VWP. Alternatively, persons not in possession of a machine-readable passport will have to secure a nonimmigrant visa from a United States Embassy or Consulate in order to enter the United States.

Clearly, the Department of Homeland Security is mandated to implement this important requirement at our ports-of-entry on October 1, 2003, and it is our intention to do so. The Department will endeavor to work with interested parties, especially business associated with international travel and foreign governments, to ~~met~~meet our statutory requirements without adversely impacting the vital flow of international visitors from VWP countries.

We note that this mandate extends to transportation lines which are signatory to agreements to transport VWP travelers and which are further required under section 273 of the Immigration and Nationality Act to ensure that their passengers are in possession of valid passports, and visas, if required. This Department will work closely with the Department of State and with transportation lines to ensure that this new requirement is ~~widely known~~widely known and understood by travelers who will be subject to it.

Though this is not a new requirement, having been enacted nearly two years ago, it is very different from the historic documentary requirements for which transportation lines have been responsible. Up to now, transportation line staff have been required to ensure that travelers were in possession of facially valid, unexpired passports, and visas, if visas were required. In the case

of VWP travelers, their passports' machine-readability or lack thereof will now regulate whether or not a visa is required. Before and after implementation of this requirement we will work closely with transportation lines to ensure that they have a clear understanding of the document-checking requirements for which they are liable. We will carefully monitor and analyze documents presented by travelers at ports-of-entry and will provide feedback to carriers as we identify issues which merit attention or may affect implementation of this requirement. Although machine-readable passports are generally readily recognizable, some countries' passports contain machine-readable zones which do not conform to International Civil Aviation Organization (ICAO) standards as a result of design or production flaws. Again, we will work with transportation lines and, through the Department of State, with affected countries to ensure that the fullest possible information on compliance with this requirement is provided.

I would like to thank the Committee for the opportunity to present this testimony. The Department of Homeland Security welcomes implementation of this provision of the USA PATRIOT Act as a necessary step in ensuring that adequate and accurate data is available to inspectors at our ports-of-entry and to all law enforcement and national security agencies. We are aware that implementation of this requirement will be challenging for all parties at interest because it represents a departure from traditional standards for documentation of travelers. Nonetheless, in our view, it represents critical progress towards strengthening our intelligence, border protection, and transportation security capabilities and will serve as a model for international enhancements in these areas. The Department will achieve this security enhancement while endeavoring to facilitate the valuable economic and social benefits brought

to our country by international travelers. I would be pleased to respond to any questions the Committee may have.